

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

S. 2321, Cranston Bill

FROM:

OLC
7D35

EXTENSION

6136

NO.

OLC 73-0971

DATE

27 August 1973

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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15.

It is requested that you submit any comments you may have which would be useful in drawing up an Agency position on the attached bill. We would be particularly interested in comments on section 1 of the bill.

cc: DDI, DDM&S, DDS&T, DDO
OGC

Approved For Release 2001/09/07 : CIA-RDP76M00527R000700120012-8

28 August:

DDI and OGC said they had no
helpful suggestions to offer.

10 September: ,

DDS&T telephoned to say that they have no
comments.

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SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM

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OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	INITIALS
1	Deputy Director for Operations	6
2		
3	OLC / [REDACTED]	
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ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:



Would enclose Attached

Comment.

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FROM: NAME, ADDRESS AND PHONE NO.

DATE

Chief, Operations Staff

30 Aug.

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SPEED LETTER	REPLY REQUESTED			DATE
	X	YES	NO	28 Aug 1973
TO : Chief, Operations Staff ATTN:			FROM: DDO	

SUBJECT: Letter from John Stennis to Mr. Colby re Limitation to Eight Years a Person May serve as DCI (attached DDO-73-4659) (S.2321)

Please comment in coordination with Services Staff. Agree Sec 2 is more pertinent our interests. SUSPENSE 5 September.


William E. Nelson

SIGNATURE

REPLY

DATE
30 August 1973

Attached are comments on S.2321. They have been discussed with Chief, Services Staff and he is in accord with their tenor.

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30 AUG 1973

MEMORANDUM FOR: Deputy Director for Operations
25X1A

FROM: Chief, Operations Staff [REDACTED]

SUBJECT: Comment on Draft S. 2321

REFERENCE: N-340/73

Section 1.

The first proviso (line 8) banning two military incumbents presents no problem since it is carried over from the basic Act and is in line with the tradition of civilian control.

The second proviso (line 10) banning two in-house incumbents has the meretricious appeal of disapproval of cliques but it should be exposed for its Know-Nothing philosophy of stipulating that in an Agency which has highly specialized disciplines and distinctive management problems the two top positions should not both be filled by individuals who have training in and dedication to those disciplines and experience of the management problems. It would be more enlightened to stipulate that no one may occupy the post of DCI or DDCI without at least five years prior experience in the Agency.

As to the eight-year term for a Director, the legislators of the country presumably have the right to make certain stipulations about the office holders who expend the money they appropriate. There remains the question whether such a specification is an encroachment on Executive Power and might be contested by the White House under the doctrine of separation of powers. Since the President himself is limited to eight years, it is doubtful that his Counsel would balk at other eight-year limitations.

Section 2.

The addition of the qualifying clause does not seem to limit Presidential powers to authorize activities or to assign them to the Agency. It stipulates that there will be a written description of the authorization and

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that it will be signed by the President. In effect, it sets up an audit trace for lines of authority. This can hardly be objected to, especially since it cannot be claimed that the 40 Committee was a model of procedural regularity, not having physically assembled as such since mid 1972. If the added clause is adopted, one should more strictly delimit those items that require 40 Committee action or the new Presidential authorization and simultaneously broaden the interpretation of the "counterintelligence activity" wording of NSCID No. 5. That document justifies much more than the procurement of counterintelligence information because it authorizes "activity ---which is devoted to destroying the effectiveness of inimical foreign intelligence activities 'and' the process of---penetrating, manipulating, or repressing individuals, groups, or organizations conducting or capable of conducting (clandestine) activity". Much Covert Action could be covered under that rubric especially if "subversion" be broadly interpreted in the sense of activities that could not only undermine the United States at home but could thwart U.S. foreign policy objectives abroad.

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DD/M&S 73-3536

4 SEP 1973

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MEMORANDUM FOR: [REDACTED]/OLC

SUBJECT : S.2321, Cranston Bill

Pat:

As we discussed earlier, here are a couple of additional thoughts on S.2321, the Cranston Bill.

If DCI's are not to have any Agency service for five years before taking office, whose interest would be served by having either DCI or DDCI positions open to military? If this provision is enacted it would seem that the desirability of continuity and "in-house" experience at the highest level might be viewed as arguing in favor of making the DDCI position a spot to be held by career Agency employees.

Why should CIA be singled out for the five-year restriction (or the eight-year limitation, for that matter)? Why shouldn't it (they) apply to FBI, NSA, INR and all parts of the Community?

If the eight-year restriction is valid, why shouldn't it apply to DDCI as well as DCI?

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[REDACTED]
Acting Executive Officer to the
Deputy Director
for Management and Services

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Deputy Director for Management 31			AUG 1973
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DD/M&S 73-3502

MEMORANDUM FOR: Legislative Counsel


SUBJECT : S.2321, Cranston Bill

1. I don't know what is to be gained by limiting the tenure of the Director to eight years, but if a limitation is to be set I suggest it be ten years to preserve some semblance, at least, of independence from the political tenure of the administration.

2. The proviso that the two positions of Director and Deputy Director not be occupied by commissioned officers is in the existing statute but it has always seemed odd the Congress would not be satisfied with the control inherent in the "advice and consent" role of the Senate. The new proviso preventing both positions from being filled by career officers not only raises a question of the purpose of advice and consent, but may effectively prevent appointment of the best qualified people. Why not go one step further and prohibit both positions from being filled by people who have not had intelligence experience within the past five years? This kind of response is equally as petulant as the proposed amendment. Perhaps there isn't a good argument against it, but it does seem too bad to impose additional constraints on the selection of people out of the petulance of a Congress offended by partisan excesses of a particular administration.

3. Section 2 of the proposed legislation seems to be legislating bureaucracy, but it may be an effective way of protecting the Director.

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HAROLD L. BROWNMANN
Deputy Director
for
Management and Services